

1 JOHN A. RUSSO, City Attorney, State Bar No. 129729
RANDOLPH W. HALL, Assistant City Attorney, State Bar No. 080142
2 ROCIO V. FIERRO, Senior Deputy City Attorney, State Bar No. 139565
One Frank H. Ogawa Plaza, 6th Floor
3 Oakland, CA 94612
Telephone: (510) 238-6511
4 20752/343182

5 Attorneys for Defendants
CITY OF OAKLAND, et al.

6 ROCKNE A. LUCIA, JR., ESQ., State Bar No. 109349
7 RAINS, LUCIA, STERN, PC
2300 Contra Costa Blvd., Suite 230
8 Pleasant Hill, CA 94523
Telephone: (925) 609-1699

9 Attorneys for Interveners
10 OAKLAND POLICE OFFICERS ASSOCIATION

11 JAMES B. CHANIN, ESQ., State Bar No. 076043
LAW OFFICES OF JAMES B. CHANIN
12 3050 Shattuck Avenue
Berkeley, CA 94705
13 Telephone: (510) 848-4752

14 Attorneys for Plaintiffs

15 JOHN L. BURRIS, ESQ., State Bar No. 069888
LAW OFFICES OF JOHN L. BURRIS
16 Airport Corporate Centre
7677 Oakport Road, Suite 1120
17 Oakland, CA 94621
Telephone: (510) 839-5200

18 Attorneys for Plaintiff

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 DELPHINE ALLEN, et al.,
22 Plaintiffs,

23 v.

24 CITY OF OAKLAND, et al.,
25 Defendants.

Master Case No.: C00-4599 TEH (JL)

**STIPULATION AND ORDER RE:
REVISIONS TO SECTION III (Tasks 5,
7, and 8) and SECTION X (Task 45) OF
THE SETTLEMENT AGREEMENT**

[Honorable Thelton E. Henderson]

26
STIPULATION AND ORDER RE:
CHANGES TO LANGUAGE IN SECTIONS III and X (TASKS 5, 7, 8, 45)
OF THE SETTLEMENT AGREEMENT

C00-4599 TEH (JL)

STIPULATION

IT IS HEREBY STIPULATED by and between the parties that, due to the reorganization of the Department, the term "Watch Commander" be globally changed to the term "appropriate Area Commander" throughout the Negotiated Settlement Agreement.

Additionally, SECTION III (Tasks 5, 7, and 8) and SECTION X (Task 45) of the Negotiated Settlement Agreement in reference to the above-referenced case has been amended as follows:

Section III, E, 1 (Task 5)

On or before December 1, 2003, OPD shall develop a policy so that OPD personnel who become aware that a citizen wishes to file a complaint shall bring such citizen immediately, or as soon as circumstances permit, to a supervisor or IAD or summon a supervisor to the scene. If there is a delay of greater than three (3) hours, the reason for such delay shall be documented by the person receiving the complaint. In the event that such a complainant refuses to travel to a supervisor or to wait for one, the member/employee involved shall make all reasonable attempts to obtain identification, including address and phone number, as well as a description of the allegedly wrongful conduct and offending personnel, from the complainant and any witnesses. This information, as well as a description of the complaint, shall immediately, or as soon as circumstances permit, be documented on a Complaint Form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander, and shall be treated as a complaint. The supervisor or appropriate Area Commander notified of the complaint shall ensure the Communications Division is notified and forward any pertinent documents to the IAD.

Section III, E, 2 (Task 5) - The current NSA language referencing the City Jail is no longer needed since there is no longer any jail. The existing NSA language to be deleted is as

1 follows:

2 New language added to Section III, E, 2 shall read as follows:

3 2) An on-duty supervisor shall respond to take a complaint received from a jail
4 inmate, taken into custody by OPD, who wishes to make a complaint of Class I
5 misconduct contemporaneous with the arrest. The supervisor shall ensure the
6 Communications Division is notified and forward any pertinent documents to the IAD. All
7 other misconduct complaints, by a jail inmate shall be handled in the same manner as
8 other civilian complaints.

9 **Section III, E, 5, f, 5 & 6 (Task 5)** – The addition of two new subsections will enable the
10 IAD to look at the totality of a complaint in order to determine whether an *MOR* violation
11 exists. Additionally, the new language reflects current practice for contesting traffic
12 citations where no other *MOR* violation is alleged. New Section III, E, 5, f, 5 & 6 (Task 5)
13 shall read as follows:

14 5) Complainant fails to articulate an act or failure to act, that, if true, would
15 be an *MOR* violation; or

16 6) Complaints limited to California Vehicle Code citations and resulting
17 tows, where there is no allegation of misconduct, shall be referred to the appropriate
18 competent authorities (i.e. Traffic Court and/or Tow Hearing Officer).

19 **Section III, G, 1 (Task 7)** – This revision changes the term “hotline” to “complaint line” so
20 as to not imply that the line is a priority line such as a 911 line. The advisement
21 requirement applies only to the IAD and removes the Communications Division from this
22 requirement because that line is auto recorded. Section III, G, 1, (Task 7) shall read as
23 follows:

24 1) IAD or Communication Division personnel shall staff a recordable toll-
25 free complaint phone line, 24-hours a day, and receive and process complaints in
26

1 accordance with the provisions of Departmental General Order M-3. The complainant
2 shall be advised that the call is being recorded when a complaint is taken by IAD.

3 **Section III, H, 1, a, 8 (Task 8)** – This revision makes the NSA language and the OPD
4 *Manual of Rules* consistent. Section III, H, 1, a, 8 (Task 8) shall read as follows:

5 8) Solicitation or acceptance of gifts or gratuities as specified in the *Manual*
6 *of Rules*;

7 **Section III, H, 1, b (Task 8)** – This revision additionally allows an acceptable designee to
8 direct Class I offenses to be investigated at the division level. Section III, H, 1, b (Task 8)
9 shall read as follows:

10 b. Unless otherwise directed by the Chief of Police or acceptable designee (i.e.,
11 Acting Chief, Assistant Chief, or Deputy Chief), Class I offenses shall be investigated by
12 IAD investigators. Statements and interviews in Class I investigations shall be tape
13 recorded, but not transcribed except at the request of the subject member/employee,
14 complainant, command staff, Monitor, or the OIG.

15 **Section X, B, 4 (Task 45)** – This revision allows the COP to direct the discipline
16 officer to prepare a discipline recommendation without convening a Discipline
17 Conference. Section X, B, 4 (Task 45) shall read as follows:

18 4. The COP may direct the Discipline Officer to prepare a Discipline
19 Recommendation without convening a Discipline Conference.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 Dated: August 14, 2008

OAKLAND CITY ATTORNEY'S OFFICE

2
3
4 By:



ROCIO V. FIERRO, Attorneys for Defendant
CITY OF OAKLAND

5
6 Dated: July __, 2008

RAINS, LUCIA & WILKINSON, LLP

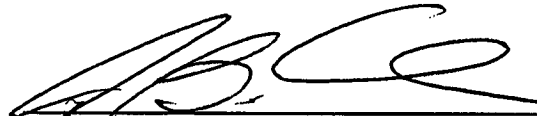
7
8
9 By:

ROCKNE LUCIA, Attorney for Interveners
OAKLAND POLICE OFFICERS ASSOCIATION

10
11 Dated: July 17, 2008

LAW OFFICES OF JAMES B. CHANIN

12
13
14 By:




JAMES B. CHANIN, Attorney for Plaintiffs

15
16 Dated: July 17, 2008

LAW OFFICES OF JOHN BURRIS

17
18
19 By:



JOHN L. BURRIS, Attorney for Plaintiffs

1 Dated: July __, 2008

OAKLAND CITY ATTORNEY'S OFFICE

2
3
4 By:

ROCIO V. FIERRO, Attorneys for Defendant
CITY OF OAKLAND

5
6 Dated: August 12, 2008

DAVID LUCIA STEEN PC (M)
RAINS, LUCIA & WILKINSON, LLP

7
8
9 By:

ROCKNE LUCIA, Attorney for Interveners
OAKLAND POLICE OFFICERS ASSOCIATION

10
11 Dated: July __, 2008

LAW OFFICES OF JAMES B. CHANIN

12
13
14 By:

JAMES B. CHANIN, Attorney for Plaintiffs

15
16 Dated: July __, 2008

LAW OFFICES OF JOHN BURRIS

17
18 By:

JOHN L. BURRIS, Attorney for Plaintiffs

ORDER

IT IS HEREBY ORDERED that Sections III (Tasks 5, 7, and 8) and Section X (Task 45) of the Settlement Agreement approved by this Court on or about January 23, 2003, are hereby revised and modified, consistent with the terms of the Parties' Stipulation.

IT IS SO ORDERED.

Dated: 08/18/08

